

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JESSICA RODRIGUEZ, LA'QUISHA HARRIS and ASHLEY WHITE
on behalf of themselves and all others similarly situated

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael R. Miller, Esq. of MARGOLIS EDELSTEIN; 215-922-1100
(phone); 170 S. Independence Mall W., Suite 400E, Philadelphia, PA
19106

DEFENDANTS

INFINITE CARE, INC., JULIO MIRANDA, GARY CHARNIS and LUIS LONDON

County of Residence of First Listed Defendant Philadelphia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 425 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	LABOR	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
		<input checked="" type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
			SOCIAL SECURITY	<input type="checkbox"/> 896 Arbitration
			<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
			<input type="checkbox"/> 862 Black Lung (923)	
			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
			<input type="checkbox"/> 864 SSID Title XVI	
			<input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | |
|---|---|--|---|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation |
|---|---|--|---|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. 2101-2109 et seq.

VI. CAUSE OF ACTION

Brief description of cause:
WARN Act litigation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/05/2015

Michael R. Miller

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

MAY 05 2015

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: c/o Margolis Edelstein, 170 S. Independence Mall W., Suite 400E, Philadelphia, PA 19106

15

2492

Address of Defendant: 6423 Rising Sun Avenue, Philadelphia, PA 19111

Place of Accident, Incident or Transaction: Philadelphia, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place ✓ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases
(Please specify) Worker Adjustment and Retraining Notification

B. *Diversity Jurisdiction Cases:*

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify) _____
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases
(Please specify) _____

All other Federal Question Cases

(Please specify) _____

Worker Adjustment and Retraining Notification

Act of 1988, 29 U.S.C. §§ 2101-2109 et seq. (the "WARN Act")

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Michael Miller, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: May 5, 2015

Michael Miller

Attorney-at-Law

306904

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

MAY 05 2015

DATE: May 5, 2015

Michael Miller

Attorney-at-Law

306904

Attorney I.D.#

CIV. 609 (5/2012)

HB

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

JESSICA RODRIGUES, LA'QUISHA HARRIS :
and ASHLEY WHITE, et al.

CIVIL ACTION

v.

15**2492**

INFINITE CARE, INC., et al.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

May 5, 2015

Michael Miller

Plaintiffs

Date
215-922-1100

Attorney-at-law
215-922-1772

Attorney for
mmiller@margolisedelstein.com

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

MAY 05 2015

(1)

8400

HB

Michael R. Miller
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170 S. Independence Mall W.
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(215)922-1779

FILED

MAY 05 2015

MICHAEL E. KUNZ, Clerk
By R2 Dep. Clerk

*Attorneys for Named Plaintiffs, proposed FLSA
Collective Plaintiffs, and proposed Class*

15 2492

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

-----x
**JESSICA RODRIGUEZ, LA'QUISHA
HARRIS and ASHLEY WHITE, on behalf of
themselves and others similarly situated,**

INDEX NO.

Plaintiffs,

v.

COMPLAINT

**FLSA COLLECTIVE ACTION AND
RULE 23 CLASS ACTION**

**INFINITE CARE, INC, JULIO MIRANDA,
GARY CHARNIS and LUIS LONDONO.,**

DEMAND FOR JURY TRIAL

Defendants.

-----x

1. Plaintiffs, on behalf of themselves and all others similarly situated, allege as follows:

JURISDICTION AND VENUE

2. This Court has original federal question jurisdiction under 28 U.S.C. § 1331 because this case is brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA") and the Pennsylvania Minimum Wage Act. ("PMWA"). This Court has supplemental jurisdiction over the Pennsylvania state law claims, as they are so related to the claims in this

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action within the Court's original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

3. Venue is proper in this District because Defendants conduct business in this District, and the acts and/or omissions giving rise to the claims herein alleged took place in this District.

THE PARTIES

4. Infinite Care, Inc. is hereinafter collectively referred to as "Defendant."

5. Defendant is part of a single integrated enterprise that employed Plaintiffs and those similarly situated at all relevant times. Defendant is run, operated and owned by Julio Miranda, who was the Director of Defendant and is subject to the same general management.

6. Upon information and belief, Defendant is a Pennsylvania corporation which operates at 6423 Rising Sun Avenue Philadelphia, PA 19111.

7. Defendant Julio Miranda ("Miranda") was at all relevant times, a Director of Infinite Care, Inc. and was actively involved in the management of the health care agency. He had ultimate authority over employees' rates of pay, schedules, hiring and firing, and maintenance of employment records. Miranda exercised sufficient control of day to day operations in his individual and personal capacity to be considered an employer of Plaintiffs and those similarly situated under the FLSA.

8. Defendant Gary Charnis ("Charnis") was at all relevant times, the Director of Operations at Infinite Care, Inc. and was actively involved in the management of the health care agency. He had ultimate authority over employees' rates of pay, schedules, hiring and firing, and maintenance of employment records. Charnis exercised sufficient control of day to day

operations in his individual and personal capacity to be considered an employer of Plaintiffs and those similarly situated under the FLSA.

9. Defendant Luis Londono (“Londono”) was at all relevant times, the President of Infinite Care, Inc. and was actively involved in the management of the health care agency. He had ultimate authority over employees’ rates of pay, schedules, hiring and firing, and maintenance of employment records. Londono exercised sufficient control of day to day operations in his individual and personal capacity to be considered an employer of Plaintiffs and those similarly situated under the FLSA.

10. Plaintiffs were employed as certified home health aides at remote locations, and were employed at Defendant’s 6423 Rising Sun Avenue Philadelphia, PA 19111 location until February 27, 2015.

FLSA COLLECTIVE ACTION ALLEGATIONS

11. Plaintiffs bring the First and Second Claims for Relief as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b) and PMWA, on behalf of all former employees of Defendant, Mirando, Chamis and Londono (hereafter “Defendants”) as of February 27, 2015 who have not received any wages from Defendants for work performed during the period from approximately February 13, 2015 until approximately February 27, 2015 (“FLSA Collective Plaintiffs”).

12. At all relevant times, Plaintiffs and the other FLSA Collective Plaintiffs are and have been similarly situated, have had substantially similar job requirements and pay provisions, and are and have been subject to Defendants’ decisions, policies, plans and common policies, programs, practices, procedures, protocols, routines, and rules willfully failing and refusing to

pay them at the legally required minimum wage for all hours worked. The claims of Plaintiffs stated herein are essentially the same as those of the other FLSA Collective Plaintiffs.

13. The First Claim for Relief is properly brought under and maintained as an opt-in collective action pursuant to § 16(b) of the FLSA, 29 U.S.C. 216(b). The FLSA Collective Plaintiffs are readily ascertainable. For purpose of notice and other purposes related to this action, their names and addresses are readily available from the Defendants. Notice can be provided to the FLSA Collective Plaintiffs via first class mail to the last address known to Defendants.

RULE 23 CLASS ALLEGATIONS - PENNSYLVANIA

14. Plaintiffs bring the state law Claims for Relief pursuant to the Federal Rules of Civil Procedure (“F.R.C.P.”) Rule 23, on behalf of all former employees of Defendants on or after the date that is six years before the filing of the Original Complaint in this case as defined herein (the “Class Period”).

15. All said persons, including Plaintiffs, are referred to herein as the “Class.” The Class members are readily ascertainable. The number and identity of the Class members are determinable from the records of Defendants. The hours assigned and worked, the positions held, and the rates of pay for each Class member are also determinable from Defendants’ records. For purposes of notice and other purposes related to this action, their names and addresses are readily available from Defendants. Notice can be provided by means permissible under said F.R.C.P. 23.

16. The proposed Class is so numerous that joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the court. Although the precise number of such persons is unknown, and the facts on which the calculation of that

number are presently within the sole control of Defendants, upon information and belief, there are more than fifty (50) members of the Class.

17. Plaintiffs' claims are typical of those claims which could be alleged by any member of the Class, and the relief sought is typical of the relief which would be sought by each member of the Class in separate actions. All the Class members were subject to the same corporate practices of Defendants, as alleged herein, of failing to pay unpaid wages. Defendants' corporate-wide policies and practices affected all Class members similarly, and Defendants benefited from the same type of unfair and/or wrongful acts as to each Class member. Plaintiffs and other Class members sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures.

18. Plaintiffs are able to fairly and adequately protect the interests of the Class and have no interests antagonistic to the Class. Plaintiffs are represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented plaintiffs in wage and hour cases.

19. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of wage and hour litigation where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate Defendant. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because the losses, injuries and damages suffered by each of the individual Class members are small in the sense pertinent to a class action analysis, the expenses and burden of individual litigation would make it extremely difficult or impossible for the individual Class

members to redress the wrongs done to them. On the other hand, important public interests will be served by addressing the matter as a class action. The adjudication of individual litigation claims would result in a great expenditure of Court and public resources; however, treating the claims as a class action would result in a significant saving of these costs. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent and/or varying adjudications with respect to the individual members of the Class, establishing incompatible standards of conduct for Defendants and resulting in the impairment of class members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the Court can, and is empowered to, fashion methods to efficiently manage this action as a class action.

20. There are questions of law and fact common to the Class which predominate over any questions affecting only individual class members, including:

- a) Whether Defendants employed Plaintiffs and the Class members within the meaning of the Pennsylvania law.
- b) At what common rate, or rates subject to common methods of calculation, was and is Defendants required to pay Plaintiffs and the Class members for their work.
- c) What are and were the policies, practices, programs, procedures, protocols and plans of Defendants regarding the types of work and labor for which Defendants did not pay the Plaintiffs and the Class members at all.
- d) Whether Defendants paid Plaintiffs and the Class members the federal and state minimum wage for all hours worked.

- e) Whether Defendants properly compensated Plaintiffs and Class members for overtime.

FACTS

21. Defendants committed the following alleged acts knowingly, intentionally and willfully.
22. Plaintiffs were not compensated by Defendants for overtime pay and wages for the hours they were permitted to suffer or endure work..
23. Plaintiffs worked approximately 40 hours per week and sometimes over 40 hours per week when compelled to do so by Defendants.
24. During the time of February 13, 2015 through February 27, 2015 Plaintiffs were not compensated by Defendants for any hourly wage for the hours they worked.
25. Defendants did not pay Plaintiffs, the FLSA Collective Plaintiffs, and members of the Class the federal and state minimum wages, and in fact did not compensate them any hourly wage.
26. Defendants had no method of tracking the amount of hours worked by Plaintiffs, the FLSA Collective Plaintiffs, and members of the Class.
27. Defendants failed to maintain written procedures pertaining to the timing, method and form of payment of wages on a regular basis.
28. Defendants unlawfully failed to pay the Plaintiffs, the FLSA Collective Plaintiffs, and members of the Class one-and-one-half times the Federal and State minimum wages for all of the hours that they worked in excess of 40 per workweek.
29. Plaintiffs' and the Class Members' workdays often lasted longer than 8 hours.

FIRST CLAIM FOR RELIEF
FLSA Minimum Wage Violations, 29 U.S.C. §§ 201, *et seq.*

(Brought By Plaintiffs on Behalf of Themselves and Against All Defendants)

30. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

31. At all relevant times, all Defendants have been, and continue to be, “employers” engaged in interstate “commerce” and/or in the production of “goods” for “commerce,” within the meaning of FLSA, 29 U.S.C. § 203. At all relevant times, Defendants have employed, “employee[s],” including Plaintiffs, requiring them to work for the sole benefit of the Defendants and/or Defendants business.

32. Throughout the statute of limitations period covered by these claims, Defendants knowingly failed to pay Plaintiffs the federal minimum wage for each hour worked.

33. Accordingly, Plaintiffs, on behalf of themselves and the FLSA Collective Plaintiffs, seeks damages in the amount of their respective unpaid compensation, liquidated (double) damages as provided by the FLSA for minimum wage violations for their willful violation of the law, attorneys’ fees and costs, and such other legal and equitable relief as this Court deems just and proper.

SECOND CLAIM FOR RELIEF

Pennsylvania Minimum Wage Act, 43 Pa. Con. Stat. Ann. § 333.101 *et seq.*

(Brought By Plaintiffs on Behalf of Themselves and the Class Against All Defendants)

34. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

35. Defendants knowingly failed to pay Plaintiffs the Pennsylvania minimum wage.

36. Defendants did not pay Plaintiffs the Pennsylvania minimum wage for all hours worked.

37. Defendants failure to pay Plaintiffs the Pennsylvania minimum wage was willful.

38. As a result of Defendants' willful and unlawful conduct, Plaintiffs and members of the Class are entitled to an award of damages, including liquidated damages, in amount to be determined at trial, pre- and post-judgment interest, costs and attorneys' fees, as provided by PMWA.

THIRD CLAIM FOR RELIEF
Breach of Contract – Pennsylvania Common Law
(Brought By Plaintiffs on Behalf of Themselves and the Class Against all Defendants)

39. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

40. Upon information and belief, Defendants entered into employment contracts with Plaintiffs governing their wages, benefits and other terms and conditions of employment.

41. By refusing to pay Plaintiffs wages for time worked, Defendants have caused a material breach of these contracts.

42. Defendants are believed to be in possession of these contracts, which will be produced during discovery.

43. As a result of these actions, Defendants have caused Plaintiffs direct and consequential damages.

FOURTH CLAIM FOR RELIEF
Unjust Enrichment – Pennsylvania Common Law
(Brought By Plaintiffs on Behalf of Themselves and Class Against All Defendants)

44. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

45. At all relevant times, Defendants caused Plaintiff to suffer work without payment of promised wages.

46. Defendants retained the benefits of such work under circumstances that render it inequitable and unjust for Defendants to retain such benefits.

47. Accordingly, Defendants were unjustly enriched by enjoying Plaintiffs' labor without proper remuneration and wages to Plaintiffs.

48. As a direct and proximate result of Defendants' unjust enrichment, Plaintiffs have suffered injury and are entitled to reimbursement, restitution and disgorgement of Defendants of all of the benefits conferred by Plaintiffs and retained by the Defendants, including but not limited to any lost profits incurred during the relevant time period.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the FLSA Collective Plaintiffs and members of the Class, prays for relief as follows:

- A. Designation of this action as a collective action on behalf of the FLSA Collective Plaintiffs and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA opt-in class, apprising them of the pendency of this action, and permitting them to assert timely FLSA claims and state claims in this action by filing individual Consent to Sue forms pursuant to 29 U.S.C. § 216(b);
- B. Designation of Plaintiffs as Representatives of the FLSA Collective Plaintiffs;
- C. Designation of this action as a class action pursuant to F.R.C.P. 23;
- D. Designation of Plaintiffs as Representatives of the Class;
- E. An award of damages, according to proof, including liquidated damages, to be paid by Defendants;
- F. Penalties available under applicable laws;

- G. Costs of action incurred herein, including expert fees;
- H. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216 and other applicable statutes;
- I. Pre-Judgment and post-judgment interest, as provided by law; and
- J. Such other and further legal and equitable relief as this Court deems necessary, just and proper.

Dated: Philadelphia, Pennsylvania Respectfully submitted,
May 5, 2015

MICHAEL R. MILLER

By: /s/ Michael R. Miller, Esquire

Michael R. Miller

Margolis Edelstein

170 S. Independence Mall W.

Philadelphia, PA 19106-3337

(215)922-1100

(215)922-1779

*Attorneys for Named Plaintiffs, proposed
FLSA Collective Plaintiffs, and proposed
Class*

DEMAND FOR JURY TRIAL

Plaintiffs hereby demands a jury trial on all causes of action and claims with respect to which he has a right to jury trial.